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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,474	01/25/2002	Bruce Christenson	EPH/27	5043
26875	7590	06/30/2004	EXAMINER	
WOOD, HERRON & EVANS, LLP 2700 CAREW TOWER 441 VINE STREET CINCINNATI, OH 45202			KRAMER, DEVON C	
			ART UNIT	PAPER NUMBER
			3683	

DATE MAILED: 06/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/057,474	Applicant(s) CHRISTENSON ET AL	
	Examiner Devon C Kramer	Art Unit 3683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 1-5, 8 and 11-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6 7 9 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2) Claims 6-7 and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fishbaugh et al (4073047) in view of Kingsley (6082721) and further in view of Gaydecki (3858925) or Ando et al (5578680).

Fishbaugh et al teaches a vibration damper comprising: a metal weight (16), a pre-cured elastomer member (14) and a metal hub (11) adapted to attach to an automotive engine wherein the elastomer is compression fitted between the metal weight and the metal hub. Please note that the damping layer is under compression when the device is assembled and therefor is considered compression fitted. Fishbaugh et al is silent to the use of a phosphate-coated surface and to the specific elastomer used.

Kingsley teaches a phosphate coated member (21) which is interference fit with an elastomer. (Col. 8 lines 55-68)

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the metal surface of Fishbaugh et al with a phosphate layer merely because the layer protects the device from corrosion and improves the durability of the device by improving the bond between the metal and the elastomer.

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Gaydecki teaches the use of ethylene propylene diene monomer rubber as a damping elastomer member.

Ando et al teaches the use of ethylene acrylate as a damping elastomer member (claim 5).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the vibration damper of Fishbaugh et al as modified by Kingsley with the elastomer material as taught by Gaydecki or Ando et al merely because ethylene propylene diene monomer rubber and ethylene acrylate are a known elastomer which has good durability and is cost effective.

Response to Arguments

3) Applicant's arguments filed 5/11/04 have been fully considered but they are not persuasive. Applicant argues that Kingsley fails to disclose a pre-cured elastomeric member which is compression fitted against a phosphated surface. Applicant points the examiner toward Column 7 lines 63 to column 8 line 9 to support this statement. Please note that col. 8 line 10 states that the elastomer is at least partially cured. Since applicant claims an apparatus and not a method of making, it is believed that Kingsley meets this limitation.

Further, applicant argues that there is no teaching whatsoever in Kingsley of phosphating the inner bushing member. Please see col. 8 lines 38-52. Please note that this passage states an improved bond between the elastomer and the metal surface.

Conclusion

4) THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

5) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Devon C Kramer whose telephone number is 703-305-0839. The examiner can normally be reached on Mon-Fri 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on 703-308-3421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DK

Robert A. Siconolfi 6/23/04
ROBERT A. SICONOLFI
PATENT EXAMINER